

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

Civ. No. B 025920

(LASC No. C 420153)

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Plaintiff-Appellant

v.

GERALD ARMSTRONG,

Defendant-Respondent.

MARY SUE HUBBARD,

Intervenor.

AND RELATED CROSS-ACTION

On Appeal From Superior Court of the State of California
County of Los Angeles
Judge Paul G. Breckenridge

APPLICATION FOR EXTENSION OF TIME IN
WHICH TO FILE APPELLANTS' REPLY BRIEF

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Counsel for Plaintiffs-Appellants

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

CHURCH OF SCIENTOLOGY OF CALIFORNIA, et al.,)	Case No. B 025920
)	
Plaintiffs-Appellants,)	LASC No. C420153
v.)	
)	
GERALD ARMSTRONG,)	
)	
Defendant-Respondent.)	
)	
MARY SUE HUBBARD,)	
)	
Intervenor.)	
)	
AND RELATED CROSS ACTION)	
)	

APPLICATION FOR EXTENSION OF TIME IN
WHICH TO FILE APPELLANTS' REPLY BRIEF

TO THE HONORABLE PRESIDING JUSTICE OF THE COURT OF
APPEAL, SECOND APPELLATE DISTRICT:

Appellants Church of Scientology of California, et al.
hereby apply to the Presiding Justice for an extension of time
of 30 days after July 30, 1990, the date Appellants' Reply
Brief is presently scheduled to be filed, so as to permit
their counsel adequate time for preparation of the brief, in
light of other responsibilities requiring the attention of
said counsel at this time. The declaration of Laurie J.
Bartilson is filed herewith in support of this application.

Dated: July 26, 1990

BOWLES & MOXON

By:

Laurie J. Bartilson
Laurie J. Bartilson

Attorneys for Appellants
Church of Scientology
of California, et al.

DECLARATION OF LAURIE J. BARTILSON

I, Laurie J. Bartilson, declare as follows:

1. I am an attorney licensed to practice law in the State of California and am a partner in the law firm of Bowles & Moxon. I have personal knowledge of the matters set forth herein and if called upon to do so, could and would competently testify thereto.

2. Appellants' reply brief is presently due to be filed on July 30, 1990 per Cal.R.App.P. 16(a) and C.C.P. §§ 12a and 12b.

3. The attorney who briefed and presented the argument before the Court of Appeal originally in August 1986 is Eric Lieberman, a New York attorney who has been admitted pro hac vice to the Bar of this Court. At that time the court declined to decide the issues on appeal because there was a cross-claim still pending. Shortly thereafter, on December 11, 1986, the cross-claim was settled and dismissed from the action. On February 9, 1987, plaintiffs filed a new appeal. The record for this appeal was finalized on October 6, 1989 and the opening brief herein was thereupon scheduled to be filed on November 6, 1989.

4. On October 30, 1989, appellants filed an Application for Extension of Time in Which to File Appellants' Opening Brief, requesting an extension until December 21, 1989, which was granted. Appellants subsequently timely filed their Opening Brief on December 29, 1989.

5. Respondent failed to file his brief within the 30-day period required by Cal.R.App.P. 16(a). On February 22, 1990,

the Clerk of this Court sent a notice to Respondent pursuant to Cal.R.App.P. 17(b), advising that if his answer was not on file within 30 days from the date of the notice, that the appeal would be submitted for decision on the record and appellant's brief. On February 28, 1990, Respondent, who represented that he was without counsel at that time, filed his Petition for Permission to File Response and for an Extension of Time to File Response, requesting an extension of 90 days for filing of his responsive brief. The extension was granted on March 9, 1990, giving Respondent 60 additional days from March 9th to file his response, or until May 8, 1990.

6. On May 7, 1990, attorney Michael L. Walton filed an Application for Order Extending Time for Filing Respondent's Brief, stating that he was retained on May 1, 1990 to represent Respondent and that he requested a further extension of 60 days within which to file Respondent's brief. That Application was granted, giving Respondent until July 7, 1990 to file his brief. Respondent's brief was eventually filed on July 9, 1990.

7. In addition to having argued the original appeal in this case in 1986, Mr. Lieberman was also the attorney primarily responsible for preparation of Appellant's Opening Brief and is responsible for preparation of Appellants' Reply Brief as well. Unfortunately, since the receipt of Respondent's brief, Mr. Lieberman has been and continues to be heavily involved in the preparation for and taking of previously-scheduled depositions in California and Texas in the cases of Corydon v. Church of Scientology

International, Case No. C 694 401, Los Angeles Superior Court, and Aznaran v. Religious Technology Center, Case No. CV 88-1786 JMI(Ex), United States District Court for the Central District of California. These depositions have occupied the majority of Mr. Lieberman's time, leaving insufficient time to prepare the reply brief in this case. Based on Mr. Lieberman's current commitments, an additional 30 days will provide adequate time for preparation of a reply brief without impairing its quality.

8. Rule 17 provides that "[i]f a sufficient written showing of excuse is made within such 30-day period, the Chief Justice or Presiding Justice may grant additional time to file the brief subject to such conditions as he may deem proper to impose." Further, Rule 43 of the California Rules of Court provides for the granting of applications to extend time for filing records and briefs for good cause shown.

9. Based on the facts set forth above, I know of no prejudice that will result to any party as a result of the granting of this application for extension of time.

10. This application is made in good faith for the reasons set forth above and not for the purpose of delay.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Laurie J. Bartilson

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, CA 90028.

On July 26, 1990, I caused to be served the foregoing document described as APPLICATION FOR EXTENSION OF TIME IN WHICH TO FILE APPELLANTS' REPLY BRIEF on interested parties in this action, to the persons and addresses as follows:

Michael L. Walton
P.O. Box 5761
Playa del Rey, CA 90296

If hand service is indicated on the attached list, I caused the above referenced paper to be served by hand, otherwise I caused such envelopes with postage thereon fully prepaid to be placed in the United States mail at Hollywood, California.

Executed on July 26, 1990 at Hollywood, California.

Lamie T. White

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SECOND APPELLATE DISTRICT

DIVISION THREE

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AND RELATED CROSS ACTION

)
) Case No. B 025920

)
) LASC No. C420153

ORDER

On the application of appellants to extend the time in which to file appellants' Reply Brief and good cause appearing,

IT IS ORDERED that Appellant Church of Scientology of California shall have an extension of time to file its Reply Brief of 15 days, to and including _____, 1990.

DATE: _____

Presiding Judge

Submitted by:


Laurie J. Bartilson
Attorneys for Appellants

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, ET AL.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

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